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**IN THE
COURT OF APPEALS OF INDIANA**

JAMES BEDREE,)	
)	
Appellant-Plaintiff,)	
)	
vs.)	No. 02A03-0607-CV-304
)	
CITY OF FORT WAYNE and)	
FORT WAYNE POLICE DEPARTMENT,)	
)	
Appellees-Defendants.)	

APPEAL FROM THE ALLEN CIRCUIT COURT
The Honorable Randy Coffey, Special Judge
Cause No. 02C01-0506-CT-64

April 18, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

James Bedree appeals the trial court's order denying his motion for summary judgment and granting the cross-motion for summary judgment filed by the City of Fort Wayne and the Fort Wayne Police Department (collectively, "the City"). We dismiss.

Facts and Procedural History

On June 30, 2005, Bedree filed against the City his complaint for damages from false imprisonment. On October 27, 2005, Bedree filed a motion for summary judgment. On December 20, 2005, the City filed a response and a cross-motion for summary judgment. On January 17, 2006, Bedree filed a response to the City's cross-motion. On February 22, 2006, the trial court granted the City's summary judgment motion, denied Bedree's summary judgment motion, and ordered the City to file a proposed judgment. On March 13, 2006, the trial court issued its order for summary judgment in favor of the City. On March 23, 2006, Bedree filed a motion to correct error, which the trial court denied on March 31, 2006. On May 4, 2006, Bedree filed a motion for relief from order, which the trial court denied on May 10, 2006. On June 6, 2006, Bedree filed his notice of appeal.

Discussion and Decision

The City contends that Bedree forfeited his right to appeal the trial court's order because he failed to timely file his notice of appeal pursuant to Indiana Appellate Rule 9(A), which states in relevant part:

- (1) *Appeals from Final Judgments.* A party initiates an appeal by filing a Notice of Appeal with the trial court clerk within thirty (30) days after the entry of a Final Judgment. However, if any party files a timely motion to correct error, a Notice of Appeal must be filed within thirty (30) days after

the court's ruling on such motion, or thirty (30) days after the motion is deemed denied under Trial Rule 53.3, whichever occurs first.

* * *

- (5) *Forfeiture of Appeal*. Unless the Notice of Appeal is timely filed, the right to appeal shall be forfeited

This rule is mandatory. “[W]e are not at liberty . . . to waive compliance with our rules that determine whether we may entertain the appeal in the first place.” *Cavazzi v. Cavazzi*, 597 N.E.2d 1289, 1292 (Ind. Ct. App. 1992).

The trial court denied Bedree's motion to correct error on March 31, 2006; Bedree did not file his notice of appeal until June 7, 2006, sixty-seven days later.¹ By failing to timely file his notice, Bedree indeed forfeited his right to appeal. Accordingly, we dismiss.

Dismissed.

BAKER, C. J., and FRIEDLANDER, J., concur.

¹ On May 4, 2006, Bedree filed a motion for relief from order, which merely reiterated arguments from his previously-filed motion to correct error. As the City correctly notes, this repetitive motion did not extend Bedree's deadline for filing his notice of appeal. See Indiana Trial Rule 53.4(A) (“**Repetitive motions and motions to reconsider ruling on a motion.** No hearing shall be required upon a repetitive motion or upon motions to reconsider order or rulings upon a motion. Such a motion by any party or the court or such action to reconsider by the court shall not delay the trial or any proceeding in the case, or extend the time for any further required or permitted action, motion, or proceeding under these rules.”); see also *Citizens Indust. Group v. Heartland Gas Pipeline, LLC*, 856 N.E.2d 734, 737 (Ind. Ct. App. 2006) (“[I]n general civil practice a motion to reconsider does not toll the time period within which an appellant must file a notice of appeal.”).